

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

HARVARD PILGRIM HEALTH CARE, INC.,)
HPHC INSURANCE COMPANY, INC., AND)
HARVARD PILGRIM HEALTH CARE OF)
NEW ENGLAND, INC.,)

Plaintiffs,)

v.)

THE UNITED STATES,)

Defendant.)

Case No. 20-578

Judge Loren Smith

JOINT STATUS REPORT

Pursuant to the Court's Status Report Order of January 14, 2022 (ECF No. 22), the parties respectfully submit this Joint Status Report. The January 14 order continued the stay in these proceedings and directed the parties to file a joint status report proposing further proceedings by March 4, 2022.

In July 2021, shortly after the U.S. Supreme Court denied the petition for writ of certiorari (No. 20-1162) and the Government's conditional cross-petition (No. 20-1432) in *Maine Community Health Options v. United States*, which sought review of the Federal Circuit's CSR decision in *Community Health Choice, Inc. v. United States*, Nos. 2019-1633, -2102, 2020 WL 4723757 (Fed. Cir. Aug. 14, 2020), the parties began discussions regarding the next steps in this litigation. Several different attorneys, collectively representing a large number of plaintiff health plans—including the plaintiff here—engaged Government counsel in discussions regarding potential resolution of the CSR matters through settlement.

The parties' resolution efforts are progressing, and the parties respectfully request that the stay of this matter continue for an additional 60 days, at which time the parties will file a joint status report. Good cause exists for the Court to continue the existing stay of this case. On December 3, 2021, Plaintiffs' counsel shared a proposal with the Government to attempt to collectively resolve the damages and mitigation issues in the CSR cases without further litigation or to significantly streamline resolution of the remaining damages/mitigation issues in these cases. The complexity of the CSR cases and the large number of interested stakeholders necessitates that the parties be afforded additional time to complete these efforts. The Government is reviewing the proposal and consulting with the client agency and its actuaries. The Government hopes to provide Plaintiffs with a substantive response soon.

The parties therefore jointly propose that they file a status report by May 3, 2022, in which the parties will update the Court on the status of their efforts to resolve this matter.

March 4, 2022

s/ Stephen McBrady
Stephen McBrady
CROWELL & MORING LLP
1001 Pennsylvania Avenue, NW Washington, DC
20004
Telephone: (202) 624-2500
Facsimile: (202) 628-5116
SMcBrady@crowell.com

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

PATRICIA M. McCARTHY
Director

/s/ Claudia Burke
CLAUDIA BURKE
Assistant Director

s/Albert S. Iarossi
ALBERT S. IAROSSO
Trial Attorney
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
P.O. Box 480
Ben Franklin Station
Washington, DC 20044
Telephone: (202) 616-3755

OF COUNSEL:

Daniel Wolff

Charles Baek

CROWELL & MORING LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004

Facsimile: (202) 353-0461

Email: albert.s.iarossi@usdoj.gov

OF COUNSEL:

DAVID M. KERR
Trial Attorney

Civil Division
U.S. Department of Justice

Counsel for Defendant